

Introduced by Senator Figueroa

February 22, 2005

An act to amend Section 2746.51 of the Business and Professions Code, relating to nursing.

LEGISLATIVE COUNSEL'S DIGEST

SB 614, as introduced, Figueroa. Certified nurse-midwives.

Existing law, the Nursing Practice Act, authorizes the Board of Registered Nursing to issue a certificate to practice nurse-midwifery. The act describes the scope of practice authorized by the certificate, including that a certified nurse-midwife may furnish or order Schedule III, IV, or V controlled substances, and if ordered in a hospital, Schedule II controlled substances.

This bill would delete the requirement that Schedule II controlled substances be ordered in a hospital. The bill would authorize a certified nurse-midwife to furnish or order Schedule II controlled substances under conditions applicable to Schedule III, IV, or V controlled substances.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2746.51 of the Business and Professions
- 2 Code is amended to read:
- 3 2746.51. (a) Neither this chapter nor any other provision of
- 4 law shall be construed to prohibit a certified nurse-midwife from
- 5 furnishing or ordering drugs or devices, including controlled
- 6 substances classified in Schedule II, III, IV, or V under the
- 7 California Uniform Controlled Substances Act (Division 10

(commencing with Section 11000) of the Health and Safety Code), when all of the following apply:

(1) The drugs or devices are furnished or ordered incidentally to the provision of any of the following:

(A) Family planning services, as defined in Section 14503 of the Welfare and Institutions Code.

(B) Routine health care or perinatal care, as defined in subdivision (d) of Section 123485 of the Health and Safety Code.

(C) Care rendered to essentially healthy persons within a facility specified in subdivision (a), (b), (c), (d), (i), or (j) of Section 1206 of the Health and Safety Code, a clinic as specified in Section 1204 of the Health and Safety Code, a general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code, a licensed birth center as defined in Section 1204.3 of the Health and Safety Code, or a special hospital specified as a maternity hospital in subdivision (f) of Section 1250 of the Health and Safety Code.

(2) The drugs or devices are furnished or ordered by a certified nurse-midwife in accordance with standardized procedures or protocols. For purposes of this section, standardized procedure means a document, including protocols, developed and approved by the supervising physician and surgeon, the certified nurse-midwife, and the facility administrator or his or her designee. The standardized procedure covering the furnishing or ordering of drugs or devices shall specify all of the following:

(A) Which certified nurse-midwife may furnish or order drugs or devices.

(B) Which drugs or devices may be furnished or ordered and under what circumstances.

(C) The extent of physician and surgeon supervision.

(D) The method of periodic review of the certified nurse-midwife's competence, including peer review, and review of the provisions of the standardized procedure.

(3) If Schedule *II* or *III* controlled substances, as defined in ~~Section~~ *Sections 11055 and 11056* of the Health and Safety Code, are furnished or ordered by a certified nurse-midwife, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician and surgeon.

1 (4) The furnishing or ordering of drugs or devices by a
2 certified nurse-midwife occurs under physician and surgeon
3 supervision. For purposes of this section, no physician and
4 surgeon shall supervise more than four certified nurse-midwives
5 at one time. Physician and surgeon supervision shall not be
6 construed to require the physical presence of the physician, but
7 does include all of the following:

8 (A) Collaboration on the development of the standardized
9 procedure or protocol.

10 (B) Approval of the standardized procedure or protocol.

11 (C) Availability by telephonic contact at the time of patient
12 examination by the certified nurse-midwife.

13 (b) (1) The furnishing or ordering of drugs or devices by a
14 certified nurse-midwife is conditional on the issuance by the
15 board of a number to the applicant who has successfully
16 completed the requirements of paragraph (2). The number shall
17 be included on all transmittals of orders for drugs or devices by
18 the certified nurse-midwife. The board shall maintain a list of the
19 certified nurse-midwives that it has certified pursuant to this
20 paragraph and the number it has issued to each one. The board
21 shall make the list available to the California State Board of
22 Pharmacy upon its request. Every certified nurse-midwife who is
23 authorized pursuant to this section to furnish or issue a drug order
24 for a controlled substance shall register with the United States
25 Drug Enforcement Administration.

26 (2) The board has certified in accordance with paragraph (1)
27 that the certified nurse-midwife has satisfactorily completed at
28 least six months of physician and surgeon supervised experience
29 in the furnishing or ordering of drugs or devices and a course in
30 pharmacology covering the drugs or devices to be furnished or
31 ordered under this section. The board shall establish the
32 requirements for satisfactory completion of this paragraph.

33 (3) A copy of the standardized procedure or protocol relating
34 to the furnishing or ordering of controlled substances by a
35 certified nurse-midwife shall be provided upon request to any
36 licensed pharmacist who is uncertain of the authority of the
37 certified nurse-midwife to perform these functions.

38 (c) Drugs or devices furnished or ordered by a certified
39 nurse-midwife may include Schedule II controlled substances
40 under the California Uniform Controlled Substances Act

(Division 10 (commencing with Section 11000) of the Health and Safety Code) under the following conditions:

(1) The drugs and devices are furnished or ordered ~~in a hospital as described in subdivision (a) of Section 1250 of the Health and Safety Code and are furnished or ordered~~ in accordance with requirements referenced in paragraphs (2) to (4), inclusive, of subdivision (a) and in paragraphs (1) to (3), inclusive, of subdivision (b).

(2) When Schedule II controlled substances, as defined in Section 11055 of the Health and Safety Code, are furnished or ordered by a certified nurse-midwife, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician and surgeon.

(d) Furnishing of drugs or devices by a certified nurse-midwife means the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure or protocol. Use of the term “furnishing” in this section shall include the following:

(1) The ordering of a drug or device in accordance with the standardized procedure or protocol.

(2) Transmitting an order of a supervising physician and surgeon.

(e) “Drug order” or “order” for purposes of this section means an order for medication or for a drug or device that is dispensed to or for an ultimate user, issued by a certified nurse-midwife as an individual practitioner, within the meaning of Section 1306.03 of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription of the supervising physician; (2) all references to “prescription” in this code and the Health and Safety Code shall include drug orders issued by certified nurse-midwives; and (3) the signature of a certified nurse-midwife on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.